JFK School of Law at National University

ID: **72081**

Exam Name: Law120 Criminal Law

Exam Date: May 3, 2024

File Name: 72081\_Law120 Criminal Law\_20240503175714846\_final.xmdx GRADE

Total Number of Words in this Exam = 2682

Total Number of Characters in this Exam = 15081

Total Number of Characters in this Exam (No Spaces, No Returns) = 12493

1)

Jack

Battery - Against Maya

Under common law battery is a physical act that results in the harmful or offensive touching of another without their consent.

Here, Jack responded to Maya ending their relationship by slapping her in the face. Aggravated Battery - Against Dave

Under common law battery may be upgraded to aggravated battery if a deadly weapon is used.

Here, Jack drove to the bookshop where Dave worked and chased him with a baseball bat and proceeded to hit him in the head with the bat yelling "die." It is clear from the fact pattern that Jack may have acted with intent to kill Dave, which now gives us the ability to infer that the bat is a deadly weapon.

Under the MPC there are four ways to get to battery:

1.Purposely, knowingly, or recklessly causing injury to another.

Jacking purposely slapped Maya in her face and hit Dave with his baseball bat. 2.Negligently causing bodily injury to another.

Jack's actions can be considered as being done purposely and not negligently because his actions display intent to harm both Maya and Dave.

3.Under circumstances causing extreme indifference to human life.

Jack hit Dave in the head with a baseball bat, which to a reasonable person would implicate that

he wanted to kill him thus satisfying the element of extreme indifference to human life.

4.With a deadly weapon

Because Jack screamed "die" while hitting Dave in the head with a baseball bat, a jury would likely deem the baseball bat as a deadly weapon.

# Jack will be found guilty of battery under both the MPC and at common law.

Assault - Against Maya

Under common law assault is intentionally putting another person in reasonable apprehension of imminent, harmful or offensive contact.

Here, Jack grabbed a baseball bat and began breaking Maya's phone and kitchen window. Depending on the jury, this may be sufficient enough to convict for assault if it is deemed that Maya had reasonable belief that she was in risk of imminent harmful contact which may be apparent since this happened right after she was slapped by the defendant. At common law physical injury is not required for Jack to be convicted of assault, so the threats that he continued to make towards Maya to kill both her and Dave satisfy the element needed to convict Jack of assault. Jack may also be charged with assault against Dave because he threatened to beat him up if he did not stop dating Maya.

Aggravated assault - Against Dave

Under common law assault may be upgraded to aggravated assault if a deadly weapon is used.

Jack taunted Dave with a baseball bat by jumping out of his truck and chasing him around with the bat. Although no physical harm was caused during this particular action, Jack subsequently shouted "die" when he hit Dave making the bat a deadly weapon and satisfying the element of aggravated assault.

MPC - There are three ways to get to assault:

1. Attempt to cause bodily injury

The MPC allows a jury to decide if mere words are enough to determine if the defendant attempted to cause bodily injury. Here, Jack threatened to kill Maya and Dave and cause bodily injury multiple times. A jury would likely find that Jack indeed attempted to cause bodily injury.

1. With a deadly weapon

As mentioned above, the bat can now be considered a deadly weapon.

# Jack will be found guilty of assault under both the MPC and at common law.

Attempted Murder

Attempt - at common law attempt is an act done with intent to commit a crime and a substantial step in furtherance of the intent to commit the crime beyond mere preparation but falls just short of committing the crime.

Here, Jack went to the shop where Dave worked with a baseball bat. A reasonable person may infer that Jack intended to commit a crime, because why would you show up to someone that you have been threatening to kill's work place with a bat. To satisfy the elements of attempt, Jack's drive to Dave's work place can be considered as an overt act and his intent can be assumed from the chasing Dave with the bat. His intent to kill is satisfied through his expression of the word "die."

MPC - Attempt crimes must have an act constituting a substantial step toward the commission of the crime.

Here, Jack's substantial step of the crime is enticing the victim and soliciting an innocent agent. Jack enticed Dave by chasing him around with the bat until he fell. Jack solicited his brother in the crime by getting him to drive him to Dave's job.

# Jack would be found guilty of attempted murder under the MPC and at common law.

Solicitation

At common law solicitation occurs when one requests or encourages another to commit a crime with the intent that the person solicited does commit the crime, regardless of whether they agree to do so.

Here, Jack enlisted his brother Vance to drive him to Dave's job to commit his assault, battery and attempted murder crimes. Depending on the jury, Jack could be charged with solicitation.

# Jack does not appear to have any defenses.

Dave

Homicide

Causation - to be found guilty of homicide, Dave must be the actual cause and proximate cause of Vance's death.

Actual cause - under the common law and the MPC, we ask the "but for" question to establish actual causation. But for the Dave's voluntary act, would Vance's death have occurred?

Proximate cause - established when the victim's death is foreseeable because of the defendant's action, as well as no superseding events that would break the chain of causation.

Here, "but for" Dave's act of running out of the store with a shotgun, and firing the shotgun, Vance would be alive. For proximate cause, the prosecution could argue that Vance's death was foreseeable because if someone runs out of a store with a shotgun surely the defendant's intent is to kill. Also, is reasonable and foreseeable that the death of a victim is possible when deadly weapons are involved. Vance died 13 months after his injury which made Dave no longer culpable for his death under common law.

# Dave is the actual and proximate cause of Vance's death and can be found guilty under the MPC but he cannot be charged with homicide under common law because of the

**year and a day rule.**

Voluntary Manslaughter

At common law Voluntary manslaughter is the unlawful killing of another without malice upon a sudden heat of passion due to reasonable provocation.

The following elements must be met:

Reasonable provocation - Here, Dave acted in response to being provoked by Jack hitting him in the head with the baseball bat repeatedly. This would cause a reasonable person to lose self control therefore this element is satisfied.

Acted in heat of passion - Dave was in fact provoked at the time he acted.

No cooling off time - Dave got up and stumbled into the shop. Because of this, the prosecutor might argue that Dave had ample time to cool off before returning with the gun and shooting Vance.

Dave may be able to get a homicide charged reduced to voluntary manslaughter if it can be proven that he had no time to cool off. However, if he is convicted of homicide he will not be convicted of the lesser charge of voluntary manslaughter.

Defenses - Dave

Self Defense - a person has the right to use to defend themselves against imminent use of unlawful force by another person.

Here, Dave was met with unlawful force from Jack when he was being hit in the head with the baseball bat. With regard to the use of deadly force, a person may use deadly force if they 1) actually and reasonably believed that deadly force was necessary (2)to protect themselves from imminent death or serious injury. It is known that Jack was trying to kill Dave from his threats and the use of the word "die" so it was justifiable for Dave to use deadly force.

Additionally the majority rule is there is no duty to retreat before using deadly force in self defense.

In this instance it is likely that Dave would be able to use self defense as a defense.

2)

Conspiracy

At common law, conspiracy is defined as an agreement between two or more persons with the intent to enter into an agreement and the intent to achieve the objective of the agreement.

MPC- conspiracy is defined as an agreement with two or more persons intending to enter into an agreement, the intent to achieve the agreement's objective, and an overt act in furtherance of conspiracy.

Here, Brian entered into an agreement with Adam to rob the Peters, the Jones, and the Greens houses. Because this was three separate occasions, it would be three separate charges of conspiracy. Further, the agreement's objective was to rob the houses, which Brian did when he entered in the homes.

Under common law and the MPC, Brian would be found guilty of conspiracy. Larceny

At common law, larceny is a specific intent crime. It is defined as trespassory taking and carrying away of the personal property of another with the intent to permanently deprive the other person of the property.

Here, Brian broke into three homes (trespassing) and stole goods with no intent to returning them.

Brian will be found guilty of larceny. Robbery

At common law, robbery is defined as the taking of personal property of another by force or intimidation with the intent to permanently deprive them thereof.

Here, Brian punched Mr. Jones repeatedly during a robbery. This satisfies the element of force happening during the theft and physical force.

Since the force only need be slight enough to gain control, Brian will be found guilty of robbery.

Burglary

Under common law, Burglary is the breaking and entering of a dwelling house at night with the intent to commit a felony.

MPC - a person is guilty of burglary if he enters any structure of another regardless of the time of day.

Here, there is no clear indication of the time that Brian and Adam entered into the homes to commit the crimes. Night time can be assumed from the robbery where they visited a bar first to get drunk, however if this cannot be proven it may be hard to convict under the common law. Under the MPC, this specific element is taken away, so it will be easier to convict Brian of burglary. This crime requires trespassing, which is apparent since Brian and Adam did not have consent to enter the couples' homes.

Brian will be convicted of burglary under the MPC. If the prosecution can prove that one of the burglaries happened at night time, he will also be convicted under common law.

Battery

Under common law battery is a physical act that results in the harmful or offensive touching of another without their consent.

MPC - Under the MPC, Brian can be convicted of battery if he purposely, knowingly, or recklessly causing injury to another.

Here, Brian punched Mr. Jones repeatedly after Mr. Jones tried to restrain him. This act can be considered as a harmful physical act and he purposely caused the injury to Mr. Jones.

Brian would be found guilty of battery under both common law and the MPC. Defenses

Self - defense - Battery

Self Defense - a person has the right to use to defend themselves against imminent use of unlawful force by another person.

Because Mr. Jones attempted to restrain Brian, he may try to use self defense as a defense to the battery charge. Brian utilized non deadly force, which may be used as reasonably appears necessary to prevent the imminent use of unlawful force on him. There is no duty to retreat and Brian used enough to free himself.

Necessity - This may be used if the defendant reasonably believed that his conduct was necessary to avoid harm to self or society.

Here, Brian was coerced into the last robbery because Adam threatened to kill his family. Any reasonable person would go through with the crime to save their loved ones. This defense could be used as a defense to the last robbery committed.

Voluntary intoxication - This defense may be used if the intoxication prevents the defendant from formulating the requisite intent.

Here, Brian did not want to commit the last burglary and can use intoxication as a defense because from the facts we know he was stumbling out of the bar prior to the robbery. This level of of intoxication could lead the jury to believe that he is not in his right mind to form intent to rob someone.

3)

Rape

At common law, rape is forcible intercourse by a man against a woman who is not his wife by the force of threat and against her will.

MPC - Forcible intercourse by a man against a woman accomplished by threat or force and against her will.

Here, Dale had sex with his wife while she was in a deep sleep and on medication. Because of her altered state of mind, similar to drinking, Dale's wife could not legally consent to sex.

Under the MPC, Dale would be found guilty of rape. Under common law, Dale would not be found guilty of rape because of the marital exemption.

Involuntary Manslaughter

Under common law, involuntary manslaughter is death caused by criminal negligence.

Here, Dale waited with his rifle to catch what he thought was a thief. He shot his rifle three times and killed a passerby. Dale has no right to shoot his weapon into the open without knowing who he was shooting at. This can be deemed as negligence.

Dale would be found guilty of involuntary manslaughter at common law.

Aggravated Battery

Under common law battery is a physical act that results in the harmful or offensive touching of another without their consent. Battery may be upgraded to aggravated battery if a deadly weapon is used.

Here, Dale used a gun, which is considered a deadly weapon because death can be inferred as imminent when using one, to shoot at Ed striking him in the hand.

Dale would be found guilty of battery. Attempted Murder

Attempt - at common law attempt is an act done with intent to commit a crime and a substantial step in furtherance of the intent to commit the crime beyond mere preparation but falls just short of committing the crime.

MPC - Attempt crimes must have an act constituting a substantial step toward the commission of the crime.

Here, Dale shot at Ed with the intent to kill him, which is an overt act beyond the mere preparation of sitting in the closet overnight and just missed completing the act of killing him.

Dale could be found guilty of attempted murder. Defenses

Mistake of Fact - A defendant can raise mistake of fact if the mistake negates the state of mind (intent) and the mistake is reasonable.

Here, Dale might try to use the mistake of fact defense because he believed he was shooting a robber. However, this might not work because his mistake of identity does not negate his intent to kill.

Ed

Burglary

Burglary

Under common law, Burglary is the breaking and entering of a dwelling house at night with the intent to commit a felony.

MPC - a person is guilty of burglary if he enters any structure of another regardless of the time of day.

Here, Ed broke into the convenience store at night by breaking the window with a hammer. This satisfies the element of night under the common law and satisfies the element of entering any structure under the MPC. This does not satisfy the element of a dwelling/house under the common law. Ed's intent to commit a felony is arguable because he only intended to have a warm place to stay.

Ed would not be found guilty of burglary under the common law or the MPC.

**END OF EXAM**